



THE LAW FIRM OF
ADAM KALISH
P.C.

182A 26th Street, Suite 2R, Brooklyn, N.Y., 11232

Adam Kalish Esq.
Office: (718) 857 - 3664
Email: Adam.Kalish@Kalishpc.com

*Hon. Frank Seddio, of Counsel
Former Judge, Surrogate's Court,
Kings County

August 24, 2020

Christopher Thompson
33 Davison Lane East
West Islip, New York 11795

Re: JDP Mortgage LLC v. Gosman
19-cv-05968

Dear Mr. Thompson:

PLEASE TAKE NOTICE, that upon the annexed letter of Adam Kalish, Esq., dated August 24, 2020, the exhibits annexed thereto, and upon all the pleading and proceedings heretofore had herein, the undersigned will move this Court on September 11, 2020 for an order (i) pursuant to Federal Rules of Civil Procedure Rule 66, providing an order for a receiver to be appointed for the property (iii) for such other, further and different relief as this Court deem just, equitable and proper.

PLEASE TAKE FURTHER NOTICE, that answering papers, if any, are required to be served upon the undersigned to be bundled for filing.



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*Hon. Frank Seddio, of Counsel
Former Judge, Surrogate's Court,
Kings County

August 24, 2020

VIA ECF

Magistrate Judge Steven I. Locke
100 Federal Plaza
Central Islip, New York 11722

Re: JDP Mortgage LLC v. Gosman
19-cv-05968

Dear Judge Locke:

I am the attorney for Plaintiff JDP Mortgage LLC in the above referenced matter. This letter is written pursuant to your individual rules and local civil rules 37.1 and 37.3 for a motion pursuant to Federal Rules of Civil Procedure R. 66 for the appointment of a receiver.

Factual Background: This action stems from the Defendant interfering with JDP Mortgage LLC's security documents placed on the premises known as 86 East Lake Drive, Montauk, New York 11954. Defendant purchased the property on November 25, 2014 and was aware at the time of the purchase that the property was in foreclosure with the previous lender. On May 14, 2018, the note and security agreement were assigned to JDP Mortgage LLC. Since acquiring the property, the defendant has interfered with JDP Mortgage LLC's right to protect its rights in the property, including to but not limited to leasing the property for the benefit of the lender.

The Appointment of a Receiver is warranted: "[T]he appointment of a receiver is considered to be an extraordinary remedy, and ... should be employed cautiously and granted only when clearly necessary to protect plaintiff's interests in the property." Citibank, N.A. v. Nyland (CF8) Ltd., 839 F.2d 93, 97 (2d Cir. 1988).

Magistrate Judge Steven I. Locke
United States District Court
Eastern District of New York
Re: JDP Mortgage LLC v. Gosman
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In New York, an owner of a property is entitled to rents until there is a default under the terms of the mortgage secured by the property. *See New York Lift Ins. Co. v. Fulton Development Co.*, 265 N.Y. 348, 193 N.E. 169 (1934). A mortgagor's right to the appointment of a receiver arises either where there is a clause in the mortgage that expressly provides for a receiver or where right grows out of facts extrinsic to the mortgage contract. *See Holmes v. Gravenhorst*, 263 N.Y. 148, 188 N.E. 285 (1933). In the absence of a mortgage covenant authorizing the appointment of a receiver, a mortgage holder seeking the appointment of a receiver of rents must establish a lack of equity in the mortgaged premises and that the mortgagor is insolvent. *See Graybill v. Heylman*, 139 A.D. 898, 123 N.Y.S. 622 (1st Dept. 1910); *Finch v. Flanagan*, 208 A.D. 251, 203 N.Y.S. 560 (3d Dept. 1924); *Clinton Capital Corp. v. One Tiffany Place Developers*, 112 A.D.2d 911, 492 N.Y.S.2d 427 (2d Dept. 1985); *First Nat. Bank of Glens Falls v. Caputo*, 124 A.D.2d 417, 507 N.Y.S.2d 516 (3d Dept. 1986); *W.I.M. Corporation v. Cipulo*, 216 A.D. 46, 214 N.Y.S. 718 (1st Dept. 1926); *Finch v. Ray*, 208 A.D. 251, 203 N.Y.S. 560 (3d Dept. 1924); *Rabinowitz v. Power*, 131 A.D. 892, 115 N.Y.S. 266 (1st Dept. 1909); *In re Wickings' Estate*, 162 Misc. 357, 294 N.Y.S. 598 (Sur. Ct. 1937). *Compare Manhattan Life Ins. Co. v. Hammerstein Opera Co.*, 180 A.D. 69, 167 N.Y.S. 245 (1st Dept. 1917). Equity is defined as the "... difference between the property value and the total amount of liens against (the property)." *In re 6200 Ridge*, 69 B.R. 837, 842 (Bankr.E.D.Pa.1987); *see In re Kaplan Breslaw Ash, LLC*, 264 B.R. 309, 322 (Bankr. S.D.N.Y. 2001). Insolvency is defined as "when the present fair salable value of [an individual's] assets is less than the amount that will be required to pay his probable liability on his existing debts as they become absolute and matured." N.Y. Debt. & Cred. Law § 271.

The current payoff of the mortgage for the premises is One Million, Six Hundred Seventy-Six Thousand, Five Hundred Twenty Three Dollars and Twenty Four Cents (\$1,676,523.23). See Exhibit A, attached to this letter and made part of the record heretofore. The last appraisal of the property demonstrates that the property could sell for One Million Four Hundred Fifty Thousand (\$1,450,000.00) in the pre-Covid 19 market. See Exhibit B, attached to this letter and made part of the record heretofore. Under the best-case scenario, that would be a deficiency of Two Hundred Twenty-Six Thousand, Five Hundred Twenty-Three dollars and Twenty-Three Cents (\$226,523.23). Asset searches have already been done on the mortgagor; such searches demonstrate an inability for the Plaintiff to recover any deficiency judgment against the mortgagor. See Exhibit C, attached to this letter and made part of the record heretofore.

Moreover, it has been communicated to the Plaintiff's counsel by the Defendant's Counsel that the Defendant has exacerbated the problem of collecting rent from this property during the period of time that this matter is open by moving into the property and further interfering with the Plaintiff's ability to protect the property and recuperate income from the property.

As such, the Plaintiff respectfully requests that the Court grant Plaintiff's ancillary relief for a Receiver to be appointed to demand, collect, receive from the tenants of the property, their sublessees or other occupants in possession, all rents, maintenance fees and or other charges relating to the property, now due and unpaid or which become due hereafter. To commence, prosecute, defend, and compromise all legal proceedings pending or otherwise, necessary for the

Magistrate Judge Steven I. Locke
United States District Court
Eastern District of New York
Re: JDP Mortgage LLC v. Gosman
19-cv-05968

protection and or preservation of the property and or to recover possession of the whole or any part thereof, but not limited to proceeding for the collection of rents, maintenance fees and other charges relating to the property due or hereafter to become due and for removal of any tenant, subtenant, and or occupant in possession of any part of the property. To rent or lease, from time to time, and to renew and or modify such rental or leases, any part of the property on such terms as the Plaintiff shall consent. To keep the property insured against loss from theft, vandalism, fire or public liability or any other risk deemed prudent by the receiver. To pay taxes, assessments for public improvements and common element charges. To make the repairs necessary for the preservation of the property or any part thereof and bring the property into conformity with all laws, ordinances or regulations pertaining to the property. To retain counsel if it deems such necessary to fulfil its duties. To retain and pay over to itself, as incurred, expenses incurred by the Receiver in fulfilling its obligations pursuant to this order, including out of pocket expenses, provided, that any costs that are unusual shall require court approval.

Thank you for your courtesies

Respectfully submitted,

The Law Firm of Adam Kalish P.C.

Adam Kalish

Cc Christopher Thompson
33 Davison Lane East
West Islip, New York 11795



FCI Lender Services, Inc.

Toll Free: (800) 931-2424 Hrs.: Mon-Fri 8:00 a.m. - 5:00 p.m. (PT)
 Website: www.trustfcicom NMLS #4920 DRE #01022780
 PO BOX 28720 Anaheim, CA 92809-0112 Fax: (714) 282-5775

Statement Date: 05/14/2020

Demand Loan Payoff

Borrower	MELVIN H KANAN 2203 AVENUE X BROOKLYN, NY 11235 Account: 9160034594	Servicer	FCI Lender Services, Inc. PO BOX 28720 Anaheim, CA 92809-0112 800-931-2424
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As required by state law, upon receipt of payment in FULL, FCI will process the release of lien, unless directed otherwise by lender.

Estimated Payoff Date	5/14/2020
Loan Maturity Date	12/1/2036
Interest Paid to Date	1/1/2010
Next Payment Due Date	2/1/2010
Unpaid Principal Balance of Loan	\$909,997.98
Deferred Unpaid Principal Due	\$0.00
Note Interest Rate	6.5000 %
Current Interest Rate (May include Default Interest Rate)	6.5000 %
Note Rate Interest Due from 1/1/2010 to 5/14/2020	\$613,351.28
Unaccrued Balance of Default Interest from 1/1/2010 to 5/14/2020	\$0.00
Accrued/Unpaid Interest Due (May include Unpaid Default Interest)	\$0.00
Deferred Unpaid Interest Due	\$0.00
Unpaid Loan Fees	\$0.00
Prepayment Penalty Due	\$0.00
Other Payments	\$0.00
Late Charges Due from Paid-to-Date	\$394.32
Late Charges Unpaid/Due from Previous Payments	\$0.00
Late Charges Unpaid/Due & Deferred from Previous Servicer	\$0.00
Unpaid Loan Charges or Advances	\$152,684.66
Estimated Payoff Charges from Servicer	\$95.00
Credit Due from Suspense Account	\$0.00
Credit Due from Escrow Account	\$0.00
Credit Due from Restricted Funds Account	\$0.00
Estimated Amount to Fully Pay Off this Loan:	\$1,676,523.24
Please Add Additional Daily Interest Amount if Paying After 5/14/2020	
\$164.31	

PLEASE BE ADVISED THAT THIS DEMAND IS ONLY AN ESTIMATE. Additional interest, late charges, fees, and costs may be incurred by the Borrower between the Statement Date and the Payoff Date. ACCORDINGLY, PLEASE CALL (800) 931-2424 ext. 651 TO VERIFY THE PAYOFF AMOUNT PRIOR TO ISSUING PAYMENT.

Outstanding Checks:

Special Instructions:

- (1) Only Certified Funds, Wire Transfer or Title Company Check will be accepted.
- (2) Please make your disbursement payable to: FCI Lender Services, Inc.
- (3) We reserve the right to amend this demand should any changes occur that would increase the total amount for payoff.
- (4) PLEASE NOTE THIS DEMAND EXPIRES AND BECOMES NULL AND VOID ON 05/14/2020, as follows: (A) for Payment by Wire, at 2:00 p.m. PT; and (B) for Payment by Certified Funds or Title Company Check, at 5:00 p.m. PT.
- (5) THE DEMAND FEE IS DUE EVEN IF YOUR TRANSACTION IS CANCELLED.

Sincerely,

DRAFT REPORTS

DRAFT REPORTS
 FCI Lender Services, Inc.
 800-931-2424 x 650
 Fax: 714-282-5775

Attention: Data provided on this page is for informational purposes only and not to be used for tax purposes or Reinstatements out of Foreclosure. FCI Lender Services, Inc. does not warrant or represent that the information contained herein is accurate. Please call Customer Service for account

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01/01/2020	6.5000%	\$ 4,929.16	\$ 0.00	\$ 4,929.16	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 909,997.98
02/01/2020	6.5000%	\$ 4,929.16	\$ 0.00	\$ 4,929.16	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 909,997.98
03/01/2020	6.5000%	\$ 4,929.16	\$ 0.00	\$ 4,929.16	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 909,997.98
04/01/2020	6.5000%	\$ 4,929.16	\$ 0.00	\$ 4,929.16	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 909,997.98
05/01/2020	6.5000%	\$ 4,929.16	\$ 0.00	\$ 4,929.16	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 909,997.98
05/14/2020	6.5000%	\$ 2,135.97	\$ 0.00	\$ 2,135.97	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 909,997.98
		\$ 613,351.28	\$ 0.00	\$ 613,351.28	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 394.32		

** This transaction was already accomplished by the borrower.

Itemization of Other Fees Actual Charge Subject to County Recorder's Office		
Description	Destination	Amount
Demand Fee		\$30.00
Reconveyance Fee		\$85.00
Recording Fee		\$0.00
Forwarding Fee		\$0.00
		\$95.00

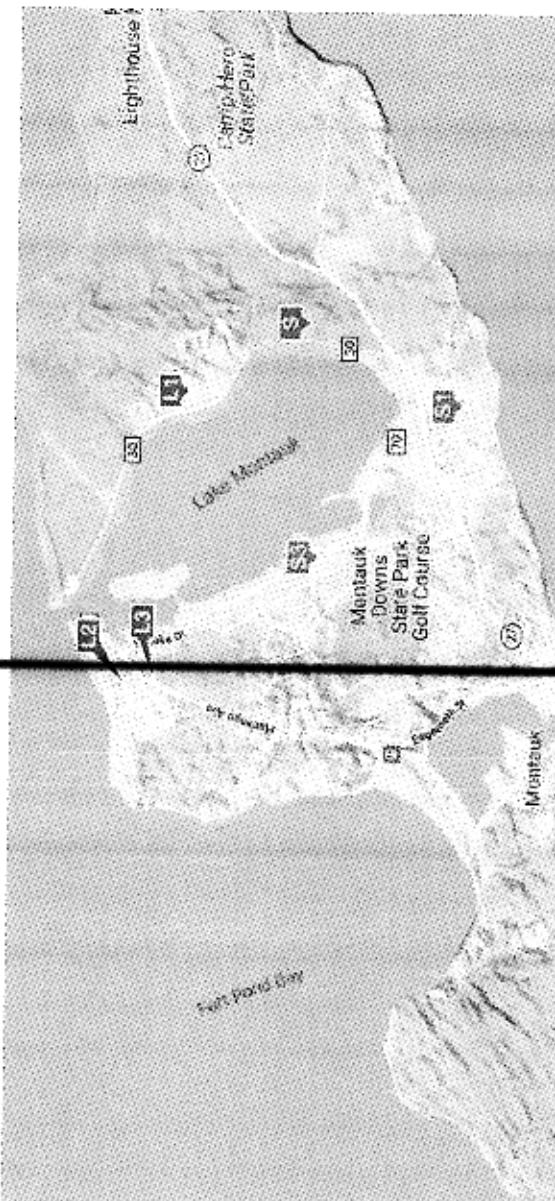
Itemization of Unpaid Charges					
Date	Description	Interest Rate	Unpaid Balance	Accrued Interest	Total Due
06/11/2018	Prior Servicer Escrow Advances	0.000%	\$94,028.50	\$0.00	\$94,028.50
06/11/2018	Prior Servicer 3rd Party Advances	0.000%	\$52,027.16	\$0.00	\$52,027.16
06/11/2018	Prior Servicer Corp Advance Fees	0.000%	\$8,261.00	\$0.00	\$8,261.00
08/16/2018	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
07/01/2018	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
09/12/2018	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
10/02/2018	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
11/01/2018	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
12/04/2018	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
01/03/2019	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
02/01/2019	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
03/01/2019	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
04/02/2019	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
05/01/2019	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
06/04/2019	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
07/03/2019	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
08/02/2019	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
09/04/2019	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
10/03/2019	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
11/06/2019	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
12/05/2019	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
01/06/2020	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
02/03/2020	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
03/02/2020	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
04/03/2020	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
05/06/2020	NY Property Inspection Costs	0.000%	\$16.00	\$0.00	\$16.00
					\$152,684.66

Property List

86 E LAKE DRIVE, MONTAUK NY 11954

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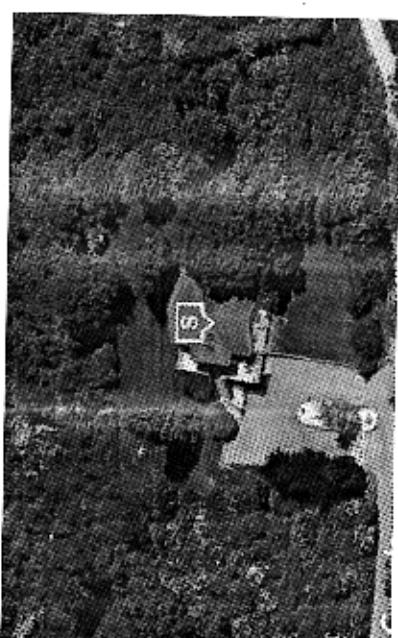
Location Map



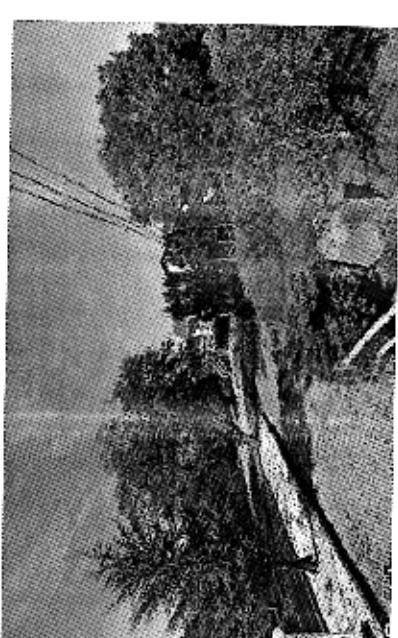
Overhead Subject Image



Bird's Eye View



Street View



Property Characteristics

Property Use	Single-Family Detached	Neighborhood Type	Rural	Railroad Tracks	No
Occupancy Status	Occupied	Neighborhood Condition	Good	Airport/Flightpath	No
Subject Visible From Street	Yes	Foreclosure Activity	LOW	Waste Management Facilities	No
Design Style	Ranch	Boarded Homes	No	Gated Community	No
Style Typical of Neighborhood	Yes	Audible Freeway/Highway Noise	No	Community Pool/Park	No
Exterior Color	Sand	Overhead Powerlines	No	Needy Schools	Good
Real Estate Agent/For Sale Sign Visible	No	Commercial Uses	No	Other	
Parking Type	Attached Garage				
Garage/Carport Capacity	1				

Property Condition

Property Condition	C4	Similar or Model Match			
Condition Relative to Adjacent Properties					
Boarded Home	No	Structural Damage	No	Evidence of Fire Damage	No
Vandalized Home	No	Broken Doors/Windows	No	Evidence of Flood/Water Damage	No
Winterized Home	No	Major Cracks in Foundation/Walls	No	Evidence of Natural Disaster	No
Property Under Construction or Renovation	No				
Siding Type	Vinyl				
Siding Condition	Good				
Floor Type	Composition shingle				
Roof Condition	Good				

Tax Assessment

Assessed Value	\$8,250
Annual Property Taxes	\$8,005

Homeowners Association

Condo or Association	No
Association Contact Name	
Association Contact Phone	

Fee

Current

Fee Delinquent

Fee Includes

Capacity

Permitted Capacities

AGENT
Mark Ogden

LICENSE NUMBER
NY

INSPECTION DATE
02/19/2020

PROPERTY ADDRESS:
86 East Lake Drive
Montauk, NY 11954

BORROWER NAME:

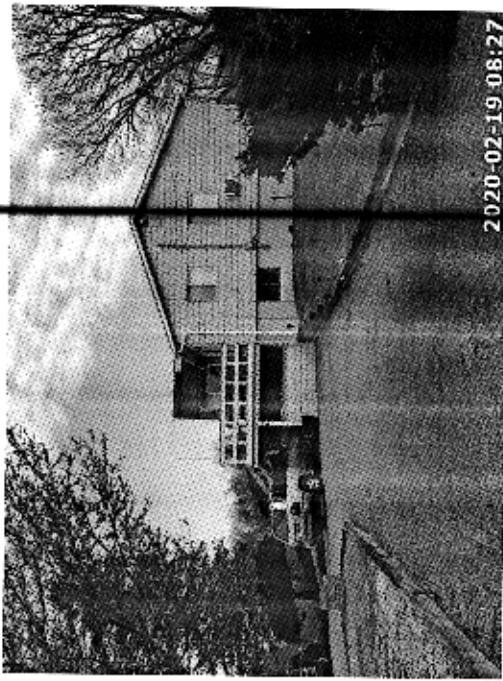
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COUNTY:
SUFFOLK

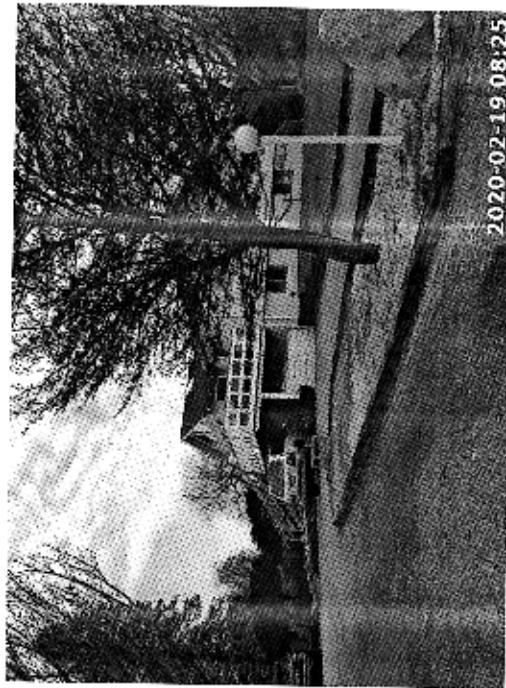
REPORT DATE:
02/19/2020

Repair	Required	Comments	Cost Estimate
		No repairs noted	\$0.00
	Total All Repairs		\$0.00
	Total Required Repairs		\$0.00
	Estimated days to complete repairs		Between 0 and 0 days

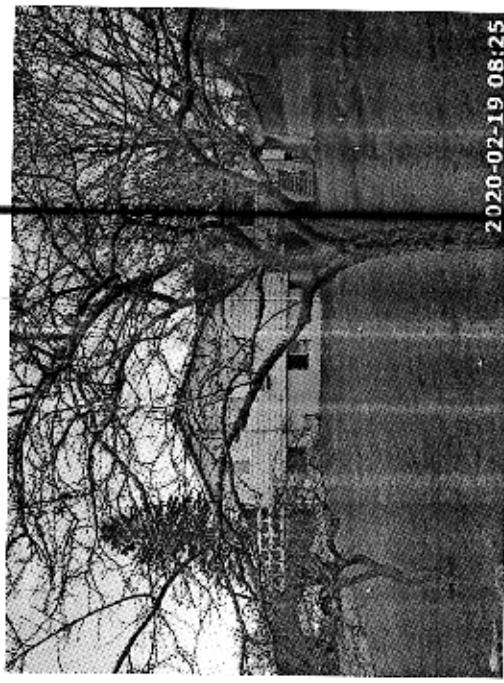
Subject Front View



Subject Left Profile



Subject Right Profile



Street Scene (Left)



BPO Pro™
EXTERIOR

PROPERTY ADDRESS:
86 East Lake Drive
Montauk, NY 11954

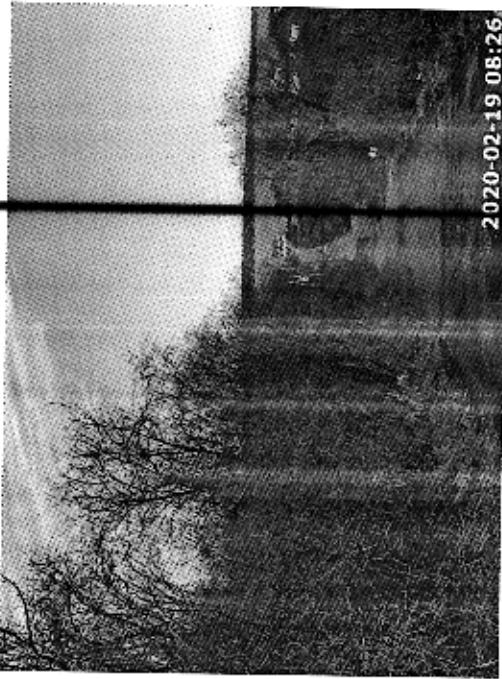
BORROWER NAME:

COUNTY:
SUFFOLK

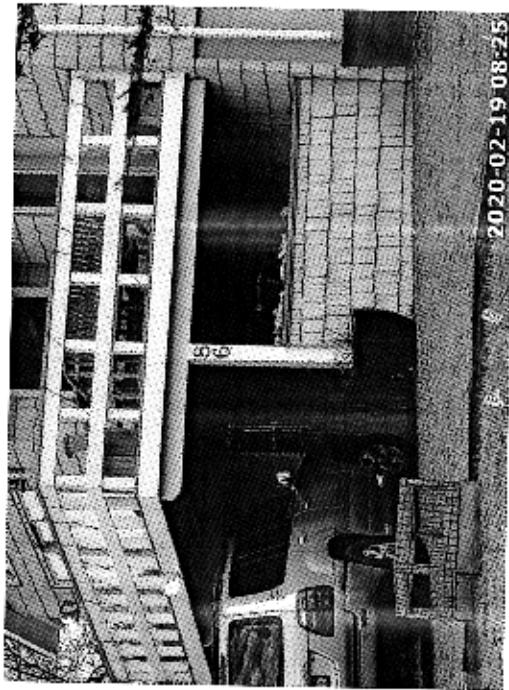
REFERENCE NUMBER:

REPORT DATE:
02/19/2020

Street Scene (Right)



Subject Address



BPOPro™
EXTERIOR

PROPERTY ADDRESS:
86 East Lake Drive
Montauk, NY 11954

BORROWER NAME:

COUNTY:
SUFFOLK

REPORT DATE:
02/19/2020

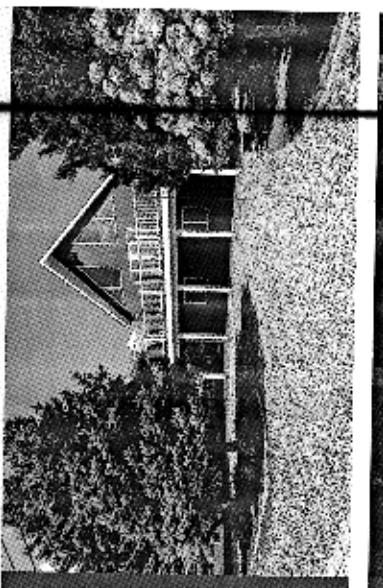
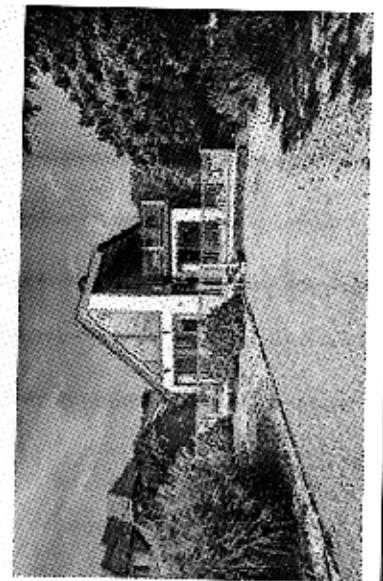
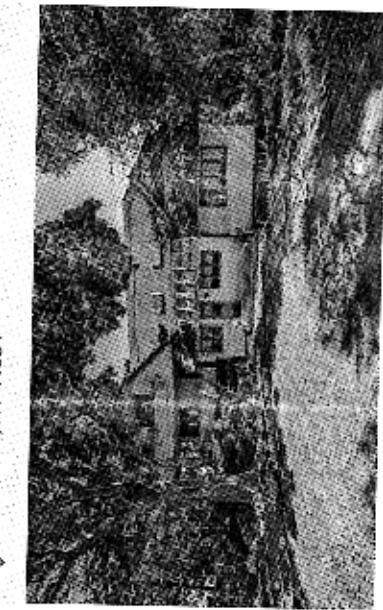
REFERENCE NUMBER:

S1
16 Sanger Place
Montauk, NY 11954

Sold Comparables

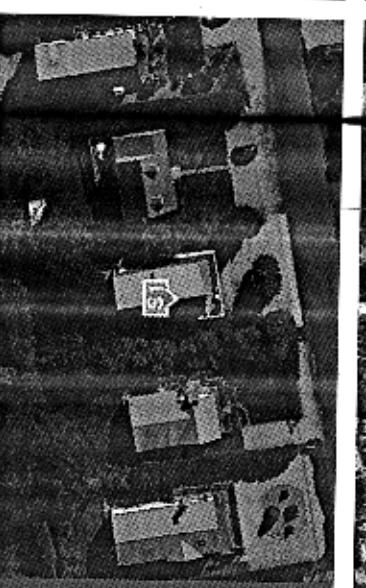
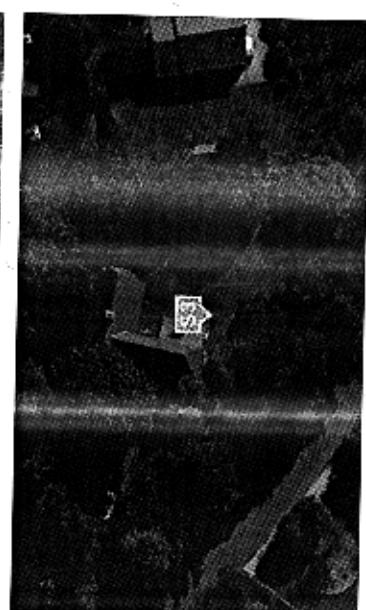
S2
35 Franklin Drive
Montauk, NY 11954

S3
19 Galtont Place
Montauk, NY 11954



MLS Photo

Overhead View



Bird's Eye View



Clarity
Real Estate Photography. Value. Integrity. Service.

Order # 388194

Page 7 of 10

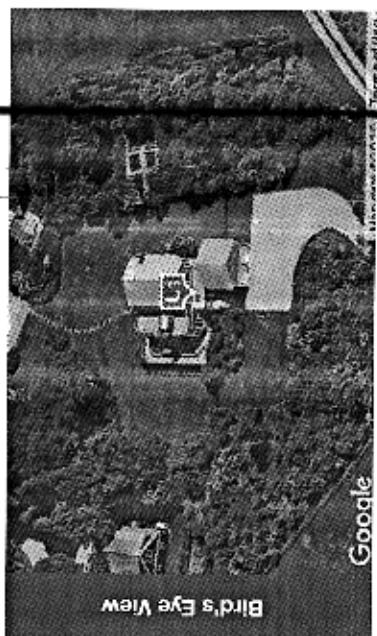
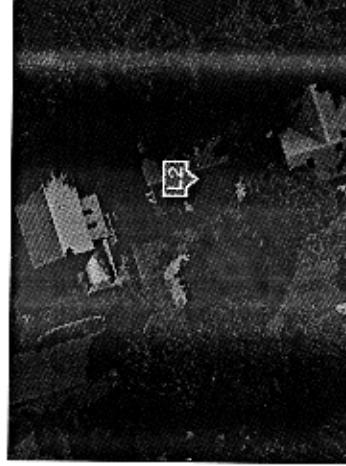
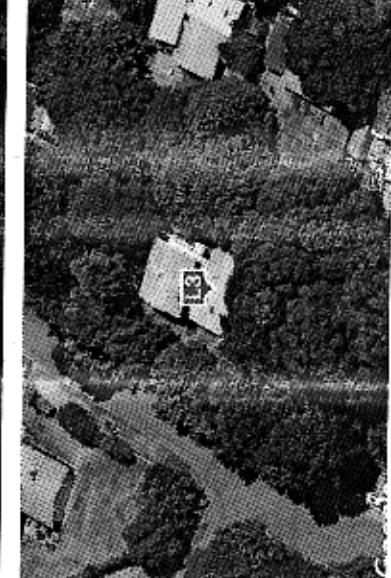
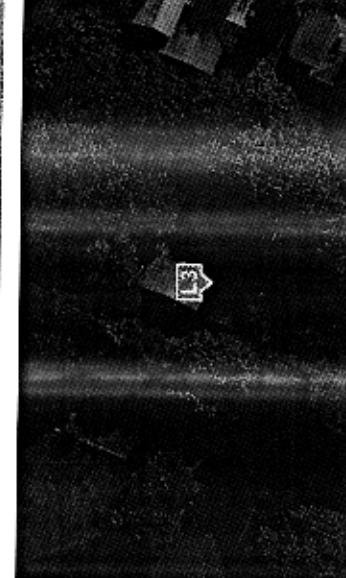
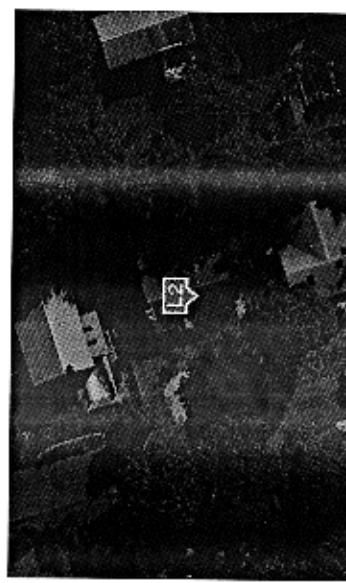
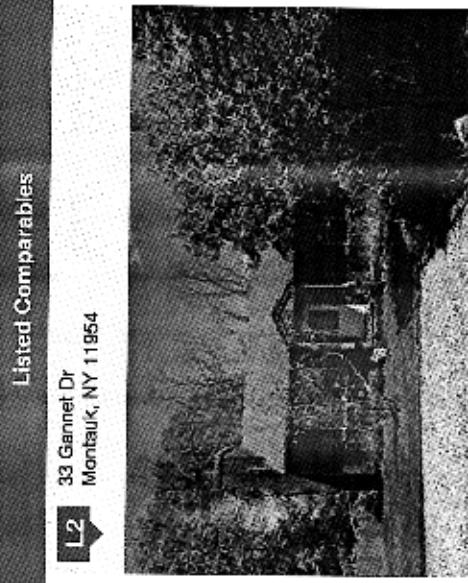
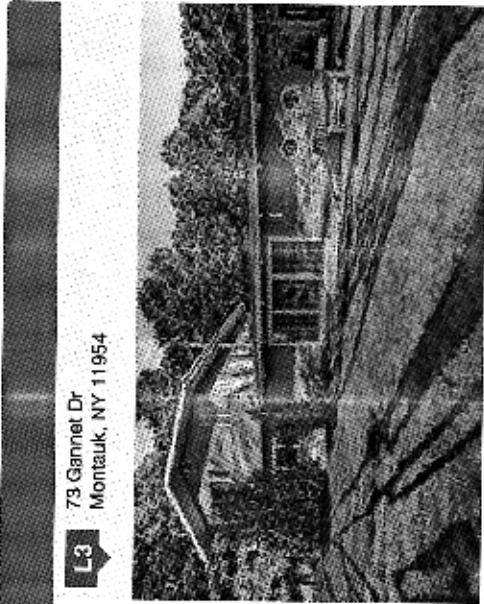
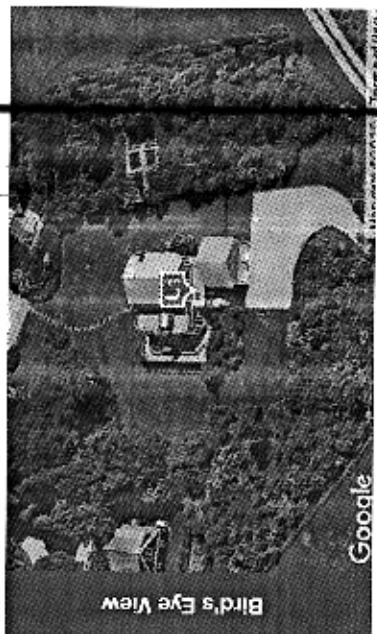
Listed Comparables

PROPERTY ADDRESS:
86 East Lake Drive
Montauk, NY 11954

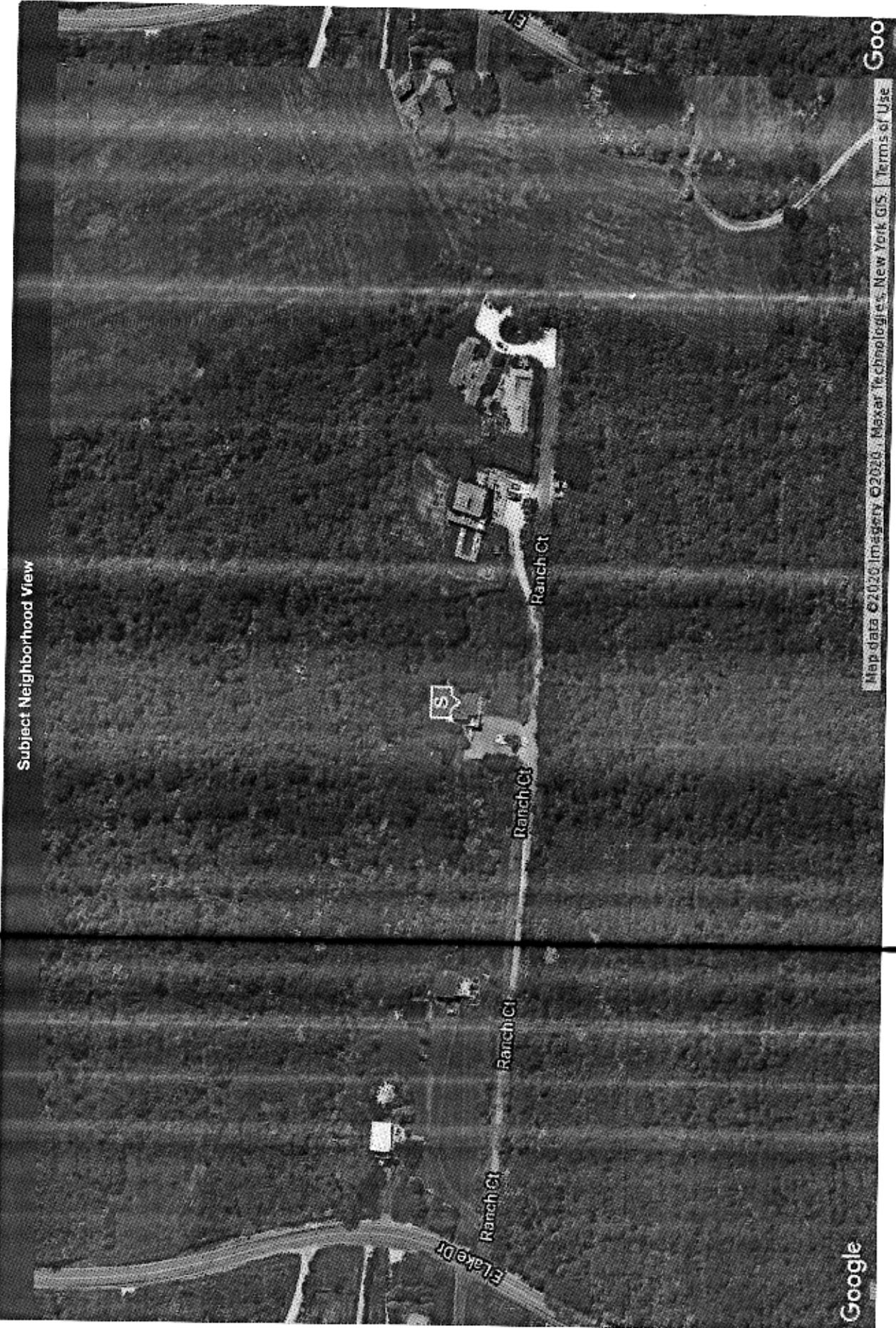
BORROWER NAME:
SUFFOLK

REFERENCE NUMBER:
02/19/2020

REPORT DATE:
02/19/2020



Subject Neighborhood View



Comparable Comments & Adjustments (Adjustments, Seller Concessions, and Differences Between Subject and Comparables Affecting Value)

Sold Comparables

	Commentary
S1	Parcel Number: 0300-031-00-04-00-021-004 : Inferior lot, Inferior no basement, Inferior no garage, Inferior no waterfront. DESCRIPTION Grab your board, beach chair or blanket and hit the sands at Ditch Plains beach from this 2000+ sq. ft. beach house just minutes to the surf and/or Ditch Witch lots. The home offers 4 bedrooms, 2 baths, A/H/air vented cathedral ceiling living space, granite open kitchen, large den/office, sunlight deck, shaded back lounge deck, Ditch Plains awaits you from this 4 bedroom, 2 bath two story beach located 1.5 short blocks from dirt lot or the Ditch Witch.
S2	Parcel Number: 0300-070-00-04-00-007-000 Inferior no garage, Superior living space, Inferior lot, Superior condition. Property Description: Entirely renovated with gorgeous finishes throughout, this three bedroom beach house in Hither Hills is three lots away from the ocean shore. The sun drenched living room has walls of glass and cathedral ceilings with a white brick fireplace open to the sparkling new kitchen. The gourmet kitchen has a center island, stainless steel top-grade appliances, custom cabinetry and has a dining area with glass sliders to the outdoor wrap-around patio.
S3	Superior living space, Superior garage, Superior fireplace, Superior CAC, Superior CAC, Superior fireplace, Superior age

	Subject	Comparable
L1	Superior finished basement, Superior lot, Superior age, Superior IGP, Superior garage, Property Description: Set on a private 1.5-acre waterfront property off East Lake Drive, this 2100sf open floor plan home also offers a 1530sf lower level with 10 ceilings, a pool house with bath, and an in-ground pool. The main floor has a large, raised kitchen overlooking a wrap-around living/dining space with huge windows overlooking Lake Montauk. Endless possibilities. Sold as is.	
L2	Interior view, Inferior living space, Inferior lot, Superior age, Superior garage	
L3	Superior garage, Inferior no basement, Inferior lot, Inferior age, Superior CAC	

This opinion is not an appraisal of the market value of the property, and may not be used in lieu of an appraisal. If an appraisal is desired, the services of a licensed or certified appraiser shall be obtained. This opinion may not be used by any party as the primary basis to determine the value of a parcel of or interest in real property for a mortgage loan origination, including first and second mortgages, refinances, or equity lines of credit.

AGENT NAME:
Mark Ogden

REPORT DATE:
02/19/2020

LICENSE NUMBER:
10311205209

AGENCY:
Realty Now Inc

LICENSE STATE:
NY

AGENT EXPERTISE:
28 Years

AGENT EMAIL:
mtogden@gmail.com

AGENT PHONE:
631-338-7100



02-19-20 12:19 pm



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MARCH 12, 2020

**ATTORNEY WORK PRODUCT
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BANK ACCOUNT INVESTIGATION REPORT ON

Melvin Kanan

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INTELLECTUAL PROPERTY INVESTIGATIONS • BACKGROUND INVESTIGATIONS • INFIDELITY INVESTIGATIONS • PROCESS SERVICE
MISSING PERSON INVESTIGATIONS • ASSET AND PROPERTY SEARCHES • INSURANCE FRAUD INVESTIGATIONS
PERSONAL INJURY INVESTIGATIONS • LOCATE AND INTERVIEW WITNESSES

Subject information

NAME: Melvin Kanan
ADDR: 2770 5th St, #22C, Brooklyn, NY 11224
111 Melissa Ln, Hawley, PA 18428
[REDACTED]
[REDACTED]
[REDACTED]

Banking information

Capital One Bank
3090 Ocean Ave,
Brooklyn, NY 11235

Business Checking account.
Account balance: \$927.19
This account is linked to his SSN.

=====

Wayne Bank
63 Welwood Ave,
Hawley, PA 18428

Personal savings account.
Account balance: \$1,007.81

We found no other accounts using this subject's name & social security number.
We did find he has a lot of debt including a foreclosure in which he owed \$910,000.